



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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1-24-95 SMITH

F1M1/0206

SMITH
7721 CLOSTER AVENUE
SAN DIEGO, CA 92146

P	EXAMINER
REICHARD, D	
ART UNIT	PAPER NUMBER

3101

DATE MAILED: 02/06/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 1-24-95 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), -0- days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1-18 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☒ Claims 1-18 are rejected.
- ☐ Claims _____ are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
- ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

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Part III DETAILED ACTION

Oath/Declaration

1. Applicant's claim of continuing status under 35 USC § 120 is acknowledged. However, no continuing status has been granted since application serial number 06/928,817 is abandoned and was never co-pending with this application. This application is considered to be a substitute for application serial number 06/928,817, which does not enjoy the benefit of the filing date of application serial number 06/928,817.

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 C.F.R. § 1.67(a) identifying this application by its Serial Number and filing date is required. See M.P.E.P. §§ 602.01 and 602.02.

The oath or declaration is defective because:
it claims benefit under 35 USC § 120 to an earlier filing date to a previous patent application which was abandoned before this application was filed.

The new oath or declaration should be identical to the declaration currently on file in this application, except that it should not refer to application serial number 06/928,817. The space where the information regarding this previous application

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appears in the current declaration on file should simply be left blank.

Specification

3. The Abstract of the Disclosure is objected to because of the use of legal terminology such as "Means" at line 19 thereof. Correction is required. Examiner suggests "A circuit is" instead of "Means are" in order to avoid use of the "Means" terminology. See M.P.E.P. § 608.01(b).

4. A substitute specification (only pages 1-15) is required because the copy in the file does not have 1 inch margins at the top of each page. Therefore, holes punched in the pages to hold them in a file wrapper have rendered some of the text unreadable. The substitute specification filed must be accompanied by a statement that it contains no new matter. Such statement must be a verified statement if made by a person not registered to practice before the Office.

5. The disclosure is objected to because of the following informalities:

At page 5 line 36 "prepackaged" should be deleted because it is redundant with page 6 line 1.

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At page 6 line 13, reference numeral "26" should be inserted after "lip" for clarity if this is a reference to the same lip as discussed previously in the specification.

At page 8 line 12, reference numeral "50" should be deleted or shown in at least one of the figures of drawing, preferably figure 8.

At page 11 line 36, "hear" should be "near" to correct a typographical error.

At page 14 line 1, "dispenser" should be "hopper" for consistent nomenclature of element 10.

Appropriate correction is required.

Claim Objections

6. Claim 16 is objected to because of the following informalities: At claim 16 line 9, "ated" should be "ating" in order to correct a grammatical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. Claims 1-18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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At claim 1 line 13, "said apparatus" lacks the proper antecedent basis. Examiner suggests "said machine" instead for consistency with claim 1 line 1.

At claim 7 line 10, "said apparatus" lacks the proper antecedent basis. Examiner suggests "said machine" instead for consistency with claim 1 line 1.

At claim 9 line 3, "said apparatus" lacks the proper antecedent basis. Examiner suggests "said machine" instead for consistency with claim 1 line 1.

At claim 18 line 12, "said apparatus" lacks the proper antecedent basis. Examiner suggests "said machine" instead for consistency with claim 18 line 1.

Any further rejections of, or objections to, any of claims 1-18 in this Office action are based on these claims as they are understood by the Examiner.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claims 1, 7, 8, and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rubino.

Rubino discloses an automatic hot food vending machine, comprising in combination: a refrigerated hopper compartment 12, a dispenser that dispenses one article at a time, an oven 16 that receives a food portion and heats it for a predetermined length of time and then dispenses the food portion to a consumer, a changer means for receiving, counting, storing and returning change if necessary (note column 6 lines 1-8 in Rubino) and signaling the dispenser to dispense a food portion into the oven which has an upward facing opening 78, positioned below the dispenser that actuates rod 80 to open and close the oven door.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same

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person or subject to an obligation of assignment to the same person.

11. Claim 9 is rejected under 35 U.S.C. § 103 as being unpatentable over Rubino in view of White.

Rubino as described above lacks the oven having tilting movement about a horizontal axis.

White teaches the pivotal mounting of an oven "D" so that in the first position the oven is in a position to receive a food portion from chute 22, and in a second position will dispense the food article down chute 25.

It would have been obvious to one having ordinary skill in the article dispensing art at the time of applicant's invention, to pivotably mount Rubino's oven as taught by White, in order reduce the number of moving parts in the Rubino vending machine.✓

12. Claims 10 and 11 are rejected under 35 U.S.C. § 103 as being unpatentable over Rubino in view of White as applied to claim 9 above, and further in view of Flubacker.

Rubino modified as taught by White lacks a detector to determine whether a heated portion of food has been discharged from the oven and for refunding the amount of money from the changer if no food is discharged.

Flubacker teaches the use of a transducer 270 for detecting when a product has passed by it, and if no product is dispensed,

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then the customer's money is refunded (note column 8, lines 6-17 in Flubacker).

It would have been obvious to one having ordinary skill in the article dispensing art at the time of applicant's invention to provide the modified Rubino vending machine with a detecting device at the outlet of the oven so that it would be apparent whether an item has been dispensed and if not to refund the customer's money.

Regarding claim 11, a "remote location" could be the changer device, which would be notified to make change as part of the teaching of Flubacker.

13. Claims 16 and 17 are rejected under 35 U.S.C. § 103 as being unpatentable over Rubino in view of Adams.

Rubino shows all of the claimed features except for means for receiving dollar bills and stacking them, and a monitoring means so that the number of bills is known.

Adams teaches the use of a changer that receives bills into it and determines the amount of each bill and gives changed accordingly.

It would have been obvious to one having ordinary skill in the article dispensing art at the time of applicant's invention to provide Rubino's vending machine with a changer that accepts dollar bills due to the rising cost of food.

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Re claim 17, note in particular column 8 in Adams.

Allowable Subject Matter

14. Claims 2-6 and 12-15 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and to include all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Levasseur is cited to show a coin level detection means and indicators to keep track of the amount of money collected by a vending machine.

Takizawa et al are cited to show a device for examining the authenticity of bills inserted into a vending machine.

16. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Dean A. Reichard at telephone number (703) 308-3682. The examiner can normally be reached on Mondays-Thursdays from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. William Terrell, can

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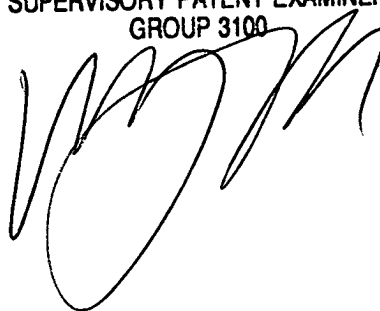
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be reached on (703) 308-2588. The fax phone number for this Group is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

WILLIAM E. TERRELL
SUPERVISORY PATENT EXAMINER
GROUP 3100



DR 2-1-96
Reichard:dar
February 1, 1996